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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,038	06/27/2001	Nikhil M. Deshpande	884.484US1	3389
21186	7590	01/18/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			GESESSE, TILAHUN	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/893,038	<b>Applicant(s)</b> DESHPANDE ET AL.	
	<b>Examiner</b> Tilahun B Gesesse	<b>Art Unit</b> 2684	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is in response to applicant's argument filed July 6, 2004, in which claims 1 through 31 are pending.

#### ***Response to Arguments***

2. Applicant's arguments, see pages 9-13, filed 7/6/04, with respect to the rejection(s) of claim(s) 1-31 under 102 (e) have been fully considered and are persuasive. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-10, 13-31 are rejected under 35 U.S.C. 102(a) as being anticipated by Mueller et al "Mueller" (US 6,185,413).

As to claims 1, 13, Mueller discloses a communication device (14) means for interrogating (9) a plurality of wireless network access service providers to gather information related to service offering (column 3, lines 64-column 4, lines 10, column 10, lines 43-68 and figures 3a and 3b)

Mueller discloses means for obtaining a provider selection criterion associated with a user of the communication device and means for selecting a service provider from the plurality of wireless network access service providers to provide wireless access to a network for the communication device based on the provider selection criteria and the information (column 5, line 63-column 6, line 40 and figure 1-3).

As to claims 2,19-21,Mueller discloses means for wirelessly transmitting a separate interrogation signal for each of the plurality of the plurality of wireless network access service providers (column 10, lines 43-68 and figure 3a & 3b).

As to claim 3, 15,16-18 Mueller discloses the separate interrogating signal includes an identifier uniquely identifying a corresponding service provider (see column 8,line 34 –column 9,line 40 and figure 2).

As to claim 4,Mueller discloses the information includes information related to a cost of service offered by a first wireless network access service provider (column 9, lines 26-40).

As to claim 5, Mueller discloses the information includes to connection performance available from a first wireless network access service provider (abstract).

As to claim 6,19-21, Mueller discloses information related to a per user bandwidth available from a first wireless network access service provider (see figure 2).

As to claim 7, Mueller discloses means of measuring a connection bandwidth associated with a first wireless network access service provider (See figure 2).

As to claim 8, Mueller discloses means for requesting a relatively short duration connection from a first wireless network access service provider to allow a connection

bandwidth of the first wireless network access service provider to be measured by the communication device (column 4, lines 30-49).

As to claims 9-10, Mueller discloses the means for prompting a user of the communication device for the provider selection criteria using an input out device (column 9, lines 41-68).

Claim 14, Mueller discloses identifying a plurality of network access service providers includes transmitting at least one inquiry signal and receiving response signals from at least two network access service providers.(see figure 1).

As to claim 22-25 Mueller discloses a computer readable medium (8) having program instructions stored thereon for performing (GSM DECT ) , when executed within a digital processing device, a method for procuring wireless access to a network ,; interrogating a plurality of network access service providers for information relating to service offerings; and selecting a service provider form the plurality of network access service providers based on the information and a selection criterion (column 8, lines 32-68 and figure 1)

Claim 26, Mueller discloses a communication device means for interrogating (9)a plurality of wireless network access service providers to gather information related to service offering (figure 3a and 3b),means for obtaining a provider selection criterion associated with a user of the communication device and means for selecting a service provider from the plurality of wireless network access service providers to provide wireless access to a network for the communication device based on the provider selection criteria and the information (figure 1 and column 10, lines 43-68).

Claim 27, Mueller discloses a memory to store said provider selection criterion, wherein said selection function retrieves said provider selection criterion from said memory for use in selecting said service provider(#4 of figure 1 and figure 2).

Claim 30-31, Mueller discloses a memory including a list of network access service providers that provide network access services to the public, said plurality of network access service providers that are active in said vicinity of said communication device representing a subset of said service providers on said list (#8 of figure 1 and figure 2)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Pecan et al (6,466,804).

As to claims 11 and 12, Mueller does not expressly teach a removable memory card and a subscriber identification module (SIM). However, Pecan et al discloses a server device 200, such as a mobile subscriber unit, having a SIM card 202 intended for use by a signal user inserted within server device 200 (column 3, lines 22-38 and figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was to utilize a removable memory card , for accessing a communication

using SIM card , as taught by Pecen, in order to identify the service provider using information stored in the smart card.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Barber et al (US 5,784,693) discloses a method and an apparatus for selecting a cellular carrier frequency for accessing cellular airtime service based upon a list of preferred system identification code (SIDs) (abstract).

Anderson et al (US 6,778,827) discloses methods and systems are provided for a wireless terminal to select a control channel from a plurality of channels provided on a plurality of respective operating frequencies (abstract).

Muller et al (US 6,356,541) discloses a device for transmitting communication data between a computer and further comprising a computer network for internet (see abstract).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2684

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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January 5, 2005

  
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